

(L) Public information

The applicant shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to market participants.

(M) Information-sharing

The applicant shall—

- (i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and
- (ii) use relevant information obtained from the agreements in carrying out the clearing organization's risk management program.

(N) Antitrust considerations

Unless appropriate to achieve the purposes of this chapter, the derivatives clearing organization shall avoid—

- (i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or
- (ii) imposing any material anticompetitive burden on trading on the contract market.

(3) Orders concerning competition

A derivatives clearing organization may request the Commission to issue an order concerning whether a rule or practice of the applicant is the least anticompetitive means of achieving the objectives, purposes, and policies of this chapter.

(d) Existing derivatives clearing organizations

A derivatives clearing organization shall be deemed to be registered under this section to the extent that the derivatives clearing organization clears agreements, contracts, or transactions for a board of trade that has been designated by the Commission as a contract market for such agreements, contracts, or transactions before December 21, 2000.

(e) Appointment of trustee**(1) In general**

If a proceeding under section 7b of this title results in the suspension or revocation of the registration of a derivatives clearing organization, or if a derivatives clearing organization withdraws from registration, the Commission, on notice to the derivatives clearing organization, may apply to the appropriate United States district court where the derivatives clearing organization is located for the appointment of a trustee.

(2) Assumption of jurisdiction

If the Commission applies for appointment of a trustee under paragraph (1)—

- (A) the court may take exclusive jurisdiction over the derivatives clearing organization and the records and assets of the derivatives clearing organization, wherever located; and
- (B) if the court takes jurisdiction under subparagraph (A), the court shall appoint the Commission, or a person designated by the Commission, as trustee with power to

take possession and continue to operate or terminate the operations of the derivatives clearing organization in an orderly manner for the protection of participants, subject to such terms and conditions as the court may prescribe.

(f) Linking of regulated clearing facilities**(1) In general**

The Commission shall facilitate the linking or coordination of derivatives clearing organizations registered under this chapter with other regulated clearance facilities for the coordinated settlement of cleared transactions.

(2) Coordination

In carrying out paragraph (1), the Commission shall coordinate with the Federal banking agencies and the Securities and Exchange Commission.

(Sept. 21, 1922, ch. 369, §5b, as added Pub. L. 106-554, §1(a)(5) [title I, §112(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-396.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (a)(2), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Federal Deposit Insurance Corporation Improvement Act of 1991, referred to in subsec. (b), is Pub. L. 102-242, Dec. 19, 1991, 105 Stat. 2236, as amended. For definition of over-the-counter derivative instrument, see section 4421 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1811 of Title 12 and Tables.

PRIOR PROVISIONS

A prior section 5b of act Sept. 21, 1922, was renumbered section 5e, and is classified to section 7b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 2, 7a-2, 8, 13a, 25, 27e of this title; title 12 section 4402.

§ 7a-2. Common provisions applicable to registered entities**(a) Acceptable business practices under core principles****(1) In general**

Consistent with the purposes of this chapter, the Commission may issue interpretations, or approve interpretations submitted to the Commission, of sections 7(d), 7a(d), and 7a-1(d)(2)¹ of this title to describe what would constitute an acceptable business practice under such sections.

(2) Effect of interpretation

An interpretation issued under paragraph (1) shall not provide the exclusive means for complying with such sections.

(b) Delegation of functions under core principles**(1) In general**

A contract market or derivatives transaction execution facility may comply with

¹ So in original. Reference to section 7a-1(d)(2) probably should be a reference to section 7a-1(c)(2).

any applicable core principle through delegation of any relevant function to a registered futures association or another registered entity.

(2) Responsibility

A contract market or derivatives transaction execution facility that delegates a function under paragraph (1) shall remain responsible for carrying out the function.

(3) Noncompliance

If a contract market or derivatives transaction execution facility that delegates a function under paragraph (1) becomes aware that a delegated function is not being performed as required under this chapter, the contract market or derivatives transaction execution facility shall promptly take steps to address the noncompliance.

(c) New contracts, new rules, and rule amendments

(1) In general

Subject to paragraph (2), a registered entity may elect to list for trading or accept for clearing any new contract or other instrument, or may elect to approve and implement any new rule or rule amendment, by providing to the Commission (and the Secretary of the Treasury, in the case of a contract of sale of a government security for future delivery (or option on such a contract) or a rule or rule amendment specifically related to such a contract) a written certification that the new contract or instrument or clearing of the new contract or instrument, new rule, or rule amendment complies with this chapter (including regulations under this chapter).

(2) Prior approval

(A) In general

A registered entity may request that the Commission grant prior approval to any new contract or other instrument, new rule, or rule amendment.

(B) Prior approval required

Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(4) of this title (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

(C) Deadline

If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

(3) Approval

The Commission shall approve any such new contract or instrument, new rule, or rule

amendment unless the Commission finds that the new contract or instrument, new rule, or rule amendment would violate this chapter.

(d) Violation of core principles

(1) In general

If the Commission determines, on the basis of substantial evidence, that a registered entity is violating any applicable core principle specified in section 7(d), 7a(d), or 7a-1(d)(2)¹ of this title, the Commission shall—

(A) notify the registered entity in writing of the determination; and

(B) afford the registered entity an opportunity to make appropriate changes to bring the registered entity into compliance with the core principles.

(2) Failure to make changes

If, not later than 30 days after receiving a notification under paragraph (1), a registered entity fails to make changes that, in the opinion of the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this chapter.

(e) Reservation of emergency authority

Nothing in this section shall limit or in any way affect the emergency powers of the Commission provided in section 12a(9) of this title.

(f) Rules to avoid duplicative regulation of dual registrants

Consistent with this chapter, each designated contract market and registered derivatives transaction execution facility shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any futures commission merchant registered with the Commission pursuant to section 6f(a) of this title (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 78o(b) of title 15 (except paragraph (11) thereof) with respect to the application of—

(1) rules of such designated contract market or registered derivatives transaction execution facility of the type specified in section 6d(3) of this title involving security futures products; and

(2) similar rules of national securities associations registered pursuant to section 78o-3(a) of title 15 and national securities exchanges registered pursuant to section 78f(g) of title 15 involving security futures products.

(Sept. 21, 1922, ch. 369, § 5c, as added and amended Pub. L. 106-554, § 1(a)(5) [title I, § 113, title II, § 251(h)], Dec. 21, 2000, 114 Stat. 2763, 2763A-399, 2763A-444.)

AMENDMENTS

2000—Subsec. (f). Pub. L. 106-554, § 1(a)(5) [title II, § 251(h)], added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7b-1, 13a, 25 of this title; title 15 section 78s.

§ 7a-3. Exempt boards of trade

(a) Election to register with the Commission

A board of trade that meets the requirements of subsection (b) of this section may operate as